

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

TERA M. BRUNER-McMAHON,
Administrator of the Estate of TERRY
ALBERT BRUNER, Deceased, et al.,

Plaintiffs,

v.

Case No. 10-1064-KHV-GLR

COUNTY OF SEDGWICK, et al.,

Defendants.

MEMORANDUM AND ORDER

On this 23rd day of September the above-captioned action came before the Court for hearing by telephone upon the Motion for Discovery Orders (doc.87). Plaintiffs appeared by Lee R. Barnett and Robert M. Giroux, their attorneys. Defendants County of Sedgwick, *et al* (Sedgwick Defendants) appeared by Arthur S. Chalmers, their attorney. Defendants Conmed, Inc., *et al* (Conmed Defendants) appeared by Gary M. Austerman, their attorney. Defendants County of Stanton, *et al* (Stanton Defendants) appeared by Allen G. Glendenning, their attorney. There were no other appearances.

By their motion Sedgwick Defendants seek a proposed Order for Inspection and Reproduction of Medical and/or Mental Health Records and/or Employment Records for Disclosure of Protected Health Information Pursuant to State and Federal Law (HIPAAA); and Qualified Protective Order. They also ask for a Protective Order Regarding Confidentiality. Plaintiffs oppose the motion and have proposed alternative orders, if the Court otherwise determines to grant it.

After giving due consideration to the motion and the memoranda submitted by the parties and after hearing statements and arguments of counsel, the Court finds that the motion should be sustained in part and overruled in part as follows:

The Court sustains the motion in general and will enter two orders as requested, but with the following modifications: As suggested by Plaintiffs, the Court will adopt the form of the ORDER FOR INSPECTION AND REPRODUCTION OF MEDICAL AND/OR MENTAL HEALTH RECORDS AND FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION PURSUANT TO STATE AND FEDERAL LAW (HIPAA); NOTIFICATION OF WAIVER OF PHYSICIAN-PATIENT PRIVILEGE AND QUALIFIED PROTECTIVE ORDER, entered October 17, 2006, in Case No. 06-1168-WEB, captioned Carol J. Hulse, Plaintiff, v. Suburban Mobile Home Supply Company *et al*, Defendants. (Doc. 90, Attachment 1.)

As proposed by the Sedgwick Defendants, the Court will also adopt the form of the AGREED JOINT PROTECTIVE ORDER REGARDING CONFIDENTIALITY (Doc. 93, Attachment 1), but with the following modifications: It will substitute the word “and” for “in” in the first sentence of Paragraph 2. It will also add the following paragraph to the order:

12. The protection provided by this order does not apply either to (1) any document or other item that has been admitted into evidence at any trial or other public hearing, or to (2) any document or other item that has been disclosed or produced in other litigation without a similar protective order.

The Court directs counsel for the Sedgwick Defendants to prepare these two orders for approval as to form by signatures of counsel for all parties and then submission to the Court for entry.

IT IS THEREFORE BY THE COURT ORDERED that the Motion for Discovery Orders (doc. 87) is sustained in part and overruled in part as herein set forth. Counsel for Sedgwick Defendants is directed to prepare, circulate, and submit the two orders for entry by the Court.

Dated this 23rd day of September 2010.

S/ Gerald L. Rushfelt
GERALD L. RUSHFELT
UNITED STATES MAGISTRATE JUDGE